

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	: Akira SUGIYAMA et al.	Group Art Unit : 3739
Appl. No.	: 10/566,204 (National Stage of PCT/JP2004/010539)	Examiner : V. Chen
I.A. Filed	: July 16, 2004	Confirmation No : 1019
For	: INTERNAL TREATMENT APPARATUS FOR A PATIENT AND AN INTERNAL TREATMENT SYSTEM FOR A PATIENT	

RESPONSE TO RESTRICTION REQUIREMENT WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop AMENDMENT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir :

In response to the Examiner's restriction requirement of September 15, 2009, setting forth a one-month period for response to extend until October 15, 2009, Applicants elect, with traverse, the invention identified by the Examiner as Group II, including claims 3-6, 14-19, and 27-32.

However, if any extension of time is necessary, this is an express request for any necessary extension of time and authorization to charge any required extension of time fee or any other fees which may be required to preserve the pendency of the present application to Deposit Account No. 19-0089.

Applicants respectfully traverse the restriction requirement. Although the Examiner has couched the requirement for restriction as lacking unity of invention because "they lack the same or corresponding special technical features", the Examiner has failed to follow the procedure set forth in MPEP § 1893.03(d) by (a) listing "the different groups of claims" **and** (2) explaining

“why each group lacks unity with each other group (*i.e.*, why there is no single inventive concept) specifically describing the unique special feature in each group”. The Examiner has recognized that the present application is a national stage (filed under 35 U.S.C. § 371) application and has made the requirement purportedly under PCT Rule 13.1, but has not, in fact, established a lack of unity of invention of the claims of the present application. As stated in MPEP § 1893.03(d), “[a] group of inventions is considered to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature”.

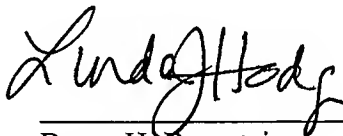
Applicants submit that claims 1-32 of the present application define only a single inventive concept, that is, of providing an internal treatment apparatus having a flexible tubular body with a plurality of circumferential apertures. The “inventions” identified by the Examiner, *i.e.*, in Groups I and II are disclosed as different embodiments of this inventive concept. In addition, the Examiner’s contention that Group II is different from Group I is incorrect, since the circumferential openings extending from a side face of Group II include the circumferential openings of Group I. Thus, some claims of Group II are merely more specific than the claims of Group I. The claims of Group I and Group II require the same technical features. However, they are still part of the single general inventive concept of providing an internal treatment apparatus having a flexible tubular body with a plurality of circumferential apertures. While the Examiner has identified a plurality of “inventive concepts” descriptive of the embodiments of the invention, the question is not whether the embodiments of the invention differ, but rather whether the embodiments share common features. Thus, since it is clear that there is only a single inventive concept defined in claims 1-32, the Examiner is respectfully requested to withdraw the requirement for lack of unity of invention.

Additionally, it would appear that the search for the groups identified by the Examiner would be coextensive or at least significantly overlap. That is, if the Examiner were to perform a search for the embodiment of Group II, there would not appear to be a serious burden in continuing the examination of the other embodiments, especially since all of the claims are directed to providing an internal treatment apparatus having a flexible tubular body with a plurality of circumferential apertures.

For the foregoing reasons, it is submitted that the Restriction Requirement (requirement for lack of unity of invention) in this application is improper and it is respectfully requested that it be reconsidered and withdrawn.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
Akira SUGIYAMA et al.

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October 14, 2009
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